

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
SECOND APPEAL NO.59 OF 2006**

.....
Office Notes, Office
memorandum of Coram,
appearances, Court's
orders or directions
& Registrar's orders.
.....

Court's or
Judge's orders

Mr.S.G.Kudle for the Appellants

**CORAM: A.S.OKA, J.
DATED: MARCH 16, 2006.**

P.C.:

1. Heard Shri Kudle for the Appellants. The Appellants are the original Defendant Nos.1 and 33 in a suit filed by the original Plaintiff-Respondent No.1. The Trial Court passed a decree for partition in respect of the suit properties. An Appeal was preferred by one of the Defendants for challenging the Judgment and Decree of the Trial Court. The said Appeal has been partly allowed and the shares of the parties have been modified to some extent.

2. The contention of the Appellants in this Appeal is that there could not have been decree for partition in respect of the land bearing Gat

No.958 as the said property was not a joint family property.

3. The Trial Court passed a decree for partition as regards the said property. The present Appellants have not challenged the said decree by preferring an Appeal before the first Appellate Court. In view of this position, decree passed by the Trial Court in respect of the aforesaid property cannot be assailed in this Second Appeal.

4. In view of what is stated above, Second Appeal is dismissed with no order as to costs.

Judge.